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ALD-127

February 16, 2007

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 06-5157

IN RE: THOMAS A. MORGAN

Present: SLOVITER, CHAGARES AND NYGAARD, CIRCUIT JUDGES

Submitted are:

- 1) Petitioner's Application pursuant to 28 U.S.C. § 2244 to file a second or successive habeas corpus petition; and
- 2) Respondent's Response

in the above-captioned case.

Respectfully,

Clerk

MMW/EMC/kb/lwc

ORDER

The foregoing application to file a second or successive habeas corpus petition is denied. Because Morgan has not shown that his proposed petition would have been considered under the pre-AEDPA standard, our application of AEDPA's gatekeeping provisions has no impermissible retroactive effect. See In Re Minarik, 166 F3d 591, 602 (3d Cir. 1999); McCleskey v. Zant, 499 U.S. 467, 489 (1991). Morgan makes no showing that any claim in his application rests on a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court, or on newly discovered evidence sufficient to establish by clear and convincing evidence that no reasonable fact finder would have found him guilty. 28 U.S.C. §§ 2244(b)(2) & (b)(3)(C).

By the Court,

/s/ Richard L. Nygaard  
Circuit Judge



Dated: March 1, 2007

lwc/cc: Thomas A. Morgan

Office of the Attorney General of Delaware

*Marcia M. Waldron*

Marcia M. Waldron, Clerk